

changes in the Section 8 very low-income limit, the income adjustments, or the monthly allowance for utilities and services warrant.

(4) The grantee must review and approve any schedule of rents proposed by the owner for low-income units. Any schedule submitted by an owner within the permissible maximum will be deemed approved, unless the grantee informs the owner, within 60 days after receiving the schedule, that it is disapproved.

(5) Any increase in rents for low-income units is subject to the provisions of outstanding leases, in any event, the owner must provide tenants of those units not less than 30 days prior written notice before implementing any increase in rents.

(f) *Reexamination of tenant income and composition.* (1) The owner shall reexamine the income of each tenant household living in low-income units at least once a year. At the first regular reexamination after June 19, 1995 the owner shall follow the requirements of 24 CFR part 812 concerning obtaining and processing evidence of citizenship or eligible immigration status of all family members. Thereafter, at each regular reexamination, the owner shall follow the requirements of 24 CFR part 812 concerning verification of the immigration status of any new family member.

(2) If this reexamination indicates that the tenant no longer qualifies as a low-income household, the owner must take one of the following actions, as appropriate: (i) If the unit occupied by the tenant must be leased to a low-income household to maintain the percentage of low-income units specified in the grant agreement, the owner must notify the tenant that it must move when the current lease expires or six months after the date of the notification, whichever is later; (ii) If the owner can meet this percentage without the unit occupied by the tenant (for example, by designating another comparable unit as a low-income unit), the owner may continue to lease to that tenant, but is free to renegotiate the rent at the expiration of the current lease.

(3) For provisions related to termination of assistance for failure to es-

tablish citizenship or eligible immigration status, see 24 CFR 812.9, and also 24 CFR 812.10 for provisions related to certain assistance to mixed families (families whose members include those with eligible immigration status, and those without eligible immigration status) in lieu of termination of assistance, and for provisions related to deferral of termination of assistance.

(g) *Affirmative fair housing marketing.* Marketing must be done in accordance with the HUD-approved Affirmative Fair Housing Marketing Plan, Form HUD-935.2, and all fair housing and equal opportunity requirements. The purpose of the Plan and the requirements is to provide for affirmative marketing through the provision of information regarding the availability of units in projects assisted. Affirmative marketing steps consist of good faith efforts to provide information and otherwise attract eligible persons from all racial, ethnic and gender groups in the housing market area to the available housing.

(h) *Management and maintenance functions.* The owner must perform all management and maintenance functions in compliance with equal opportunity requirements. These functions include selection of tenants, reexamination of family income, evictions and other terminations of tenancy, and all ordinary and extraordinary maintenance and repairs, including replacement of capital items.

(i) *Residency preferences.* Local residency requirements are prohibited. Local residency preferences may be applied in selecting tenants only to the extent that they are not inconsistent with affirmative fair housing marketing objectives and the owner's HUD-approved AFHM Plan. With respect to any residency preference, persons expected to reside in the community as a result of current or planned employment will be treated as residents.

[49 FR 24641, June 14, 1984, as amended at 60 FR 14841, Mar. 20, 1995]

§ 850.153 Rent control.

A project constructed or substantially rehabilitated with a housing development grant is not subject to State or local rent control unless the rent control requirements or agreements (a)

§ 850.155

(1) were entered into under a State law or local ordinance of general applicability that was enacted and in effect in the jurisdiction before November 30, 1983 and (2) apply generally to rental housing projects not assisted under the Housing Development Grant Program, or (b) are imposed under this subpart. State and local rent controls expressly preempted by this section include, but are not limited to, rent laws or ordinances, rent regulating agreements, rent regulations, occupancy agreements, or financial penalties for failure to achieve certain occupancy or rent projections.

§ 850.155 Securing owner's responsibilities.

Assistance provided under this part shall constitute a debt of the owner (including its successors in interest) to the grantee, and shall be secured by a mortgage or other security instrument. The debt shall be repayable in the event of a substantive, uncorrected violation by an owner of the obligations contained in paragraphs (b), (c), (d) and (e) of § 850.151. The instruments securing this debt shall provide for repayment to the grantee in an amount equal to the total amount of housing development grant assistance outstanding, plus interest which is determined by the Secretary by adding two percent to the average yield on outstanding marketable long-term obligations of the United States during the month preceding the date on which assistance was made available. The amount to be repaid shall be reduced by 10 percent for each full year in excess of 10 years that intervened between the beginning of the term of the owner-grantee agreement and the violation.

PART 880—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM FOR NEW CONSTRUCTION

Subpart A—Summary and Applicability

Sec.

880.101 General.

880.104 Applicability of part 880 in effect as of November 5, 1979.

880.105 Applicability to proposals and projects under 24 CFR part 811.

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- 880.611 Conditions for receipt of vacancy payments.
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- 880.612a Preference for occupancy by elderly families.

AUTHORITY: 42 U.S.C. 1437a, 1437c, 1437f, 3535(d), 12701, and 13611–13619.

SOURCE: 44 FR 59410, Oct. 15, 1979, unless otherwise noted.

Subpart A—Summary and Applicability

§ 880.101 General.

(a) The purpose of the Section 8 program is to provide low-income families with decent, safe and sanitary rental housing through the use of a system of housing assistance payments. This part contains the policies and procedures applicable to the Section 8 new construction program. The assistance may